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4. LEASE—*Action for breach of contract—Sale of lease—Burden of proof as to value of lease.* If a lease is sold for the refusal of the lessee to carry out his contract of lease, the burden is on the lessee, in an action for damages, to show that the lease did not bring its value. The amount obtained at a public sale fairly made, after due notice to the lessee, is *prima facie* the true value.

TURNBULL AND OTHERS v. MANN.—Decided at Richmond, January 7, 1897.—*Harrison, J.*

1. LIENS—*When to be marked satisfied—Section 2498 of Code.* The object of sec. 2498 of the Code is to afford a summary remedy for having marked satisfied the liens therein mentioned upon proof that the debt has been actually paid or discharged and was not intended to enable persons to have such liens marked satisfied because liable to be defeated by presumption of payment or because barred by the statute of limitations.

HAUPT v. TEBAULT.—Decided at Richmond, January 7, 1897.—*Buchanan, J.*

1. NEW TRIALS—*Payment of costs.* Where a new trial has been granted upon condition of paying the costs of the former trial, as provided by sec. 3542 of the Code, it is sufficient if the costs are paid or tendered at any time before the order granting the new trial has been set aside, and after such tender or payment it is error to rescind the order for the new trial.

CHILDRESS' ADM'X v. CHESAPEAKE & OHIO RAILWAY Co.—Decided at Richmond, January 7, 1897.—*Keth, P.*

1. PLEADING—*Declaration—Defective counts—Harmless error.* Where two counts in a declaration in an action for personal injuries state in detail all the circumstances connected with the occurrence and there has been a verdict for the plaintiff, which was set aside on a demurrer to the evidence, the Court of Appeals will not reverse the judgment of a trial court sustaining a demurrer to another count in the declaration stating the same case in very general terms, although the count may have been good. If there was error, it was harmless.

2. EVIDENCE—*Dangerous locality—Opinions of witnesses.* In an action for personal injuries, witnesses cannot be allowed to express their opinions as to whether the locality at which the injury was inflicted was dangerous or not.

3. BILL OF EXCEPTION—*When not considered by appellate court—Relevancy of evidence—Answer of witness.* If a bill of exceptions to the ruling of the trial court allowing or refusing to allow a question to be answered by a witness, fails to give the answer of the witness, or what is expected to be proved by him, the appellate court cannot determine the relevancy, admissibility or value of the answer, and the exception will not be considered.

4. DEMURRER TO EVIDENCE—*What is admitted—Case at bar—Railroad crossing.* By a demurrer to the evidence the party is considered as admitting the truth of his adversary's evidence, and all just inferences which can be properly drawn therefrom by a jury, and as waiving all of his own evidence which conflicts with that of his adversary, and all inferences from his own evidence (although not in